

John & Heidi Rapillo  
14 Winding Lane  
Scarsdale, NY 10583  
(914) 472-8191

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CLERK OF COURT  
DOCKET UNIT  
2017 NOV 17 AM 10:24

November 15, 2017

Vernon S. Broderick, U.S. District Judge  
United States District Court  
Southern District of New York  
Thurgood Marshall U.S. Courthouse  
40 Foley Square, Room 415  
New York, New York 10007

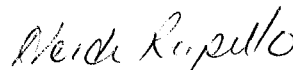
Re: Response to Fingerhut Reconsideration  
Case #1:09-CV-10429-VSB

Dear Honorable Judge Broderick:

We have once again recently received a letter of denial (copy enclosed) for records under the F.O.I.L. request from the New York County District Attorney's office. In response to this denial, we are planning to file a Motion under Article 78 and would like to request a two month extension from our original due date of November 17, 2017 to January 17, 2018. Within that timeframe, we plan to act vigorously and promptly.

Thank you for your consideration.

Respectfully submitted,



Heidi Rapillo

  
John Rapillo

Enclosure

**DISTRICT ATTORNEY**

**COUNTY OF NEW YORK**

**ONE HOGAN PLACE**

**New York, N. Y. 10013**

**(212) 335-9000**



**CYRUS R. VANCE, JR.**  
DISTRICT ATTORNEY

A rectangular stamp with the word "COPY" in bold, capital letters. To the left of the word is a small square icon containing the letter "C".

RECEIVED  
SUNY DOCKET UNIT  
2017 NOV 17 AM 10:24

November 3, 2017

Heidi Rapillo  
14 Winding Lane  
Scarsdale, New York 10583

Re: F.O.I.L. Request  
Ind. No. 2280/2008 - Holzer

Dear Ms. Rapillo:

As you know, I am an Assistant District Attorney in New York County and I have been assigned to be the Records Access Officer in connection with your request under the Freedom of Information Law (F.O.I.L.). I have reviewed your latest request for records dated October 2, 2017 and my determination as to your request follows.

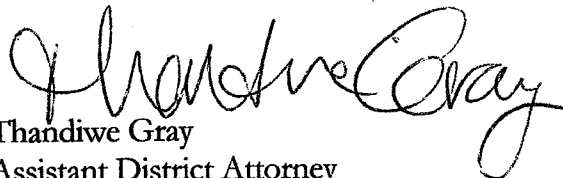
Based on my review, I have determined that you are not entitled to any of the requested records. You are denied because you are requesting the same records you have previously asked for and for which you already received determinations.

The items listed in the first four bullet points of your request were covered by records you previously requested in your letter dated October 2, 2016. By letter dated November 15, 2016, I denied access to the requested records because they were obtained via grand jury subpoena and therefore specifically exempted from disclosure by statute. Criminal Procedure Law Section 190.25(4) specifically prohibits the disclosure of grand jury proceedings, which are secret and not subject to disclosure except by court order. See Public Officers Law Section 87(2)(a); Newton v. District Attorney of Bronx County, 186 A.D.2d 57. (1st Dept. 1992). That determination remains in effect.

The items listed in the last bullet point of your request were covered by records you previously requested in your letter dated December 28, 2016. By letter dated January 31, 2017, I denied access to the requested records because statements of non-testifying witnesses are confidential and not discoverable under F.O.I.L. Johnson v. Hynes, 186 A.D.2d 777 (2d Dept. 1999). That determination remains in effect.

The Freedom of Information Law Appeals Officer is Assistant District Attorney Patricia J. Bailey, Chief of the Special Litigation Bureau, at the same address.

Sincerely,

A handwritten signature in black ink, appearing to read "Thandiwe Gray". The signature is fluid and cursive, with the first name "Thandiwe" written in a larger, more prominent script than the last name "Gray".

Thandiwe Gray  
Assistant District Attorney  
Records Access Officer

Rapillo  
14 Winding Lane  
Scarsdale, NY 10583

USM<sup>5W</sup>  
SDNY

BY HAND

Pro Se Unit

U.S. District Court  
Southern District

500 Pearl Street, Room 200  
New York, NY 10007